

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JUSTIN J. HUTCHERSON,

Petitioner,

v.

Case No. 24-C-1044

Criminal Case No. 22-CR-243

UNITED STATES OF AMERICA,

Respondent.

ORDER TO SUPPLEMENT THE RECORD

On June 1, 2023, after entering pleas of guilty to Possession with Intent to Distribute Fentanyl in violation of 21 U.S.C. § 841(a)(1) (Count 1) and Possession of a Firearm in Furtherance of a Drug Trafficking Offense in violation of 18 U.S.C. § 924(c)(1)(A)(i) (Count 2), Justin J. Hutcherson was sentenced to 78 months in the custody of the Bureau of Prisons (a below Guideline sentence of 18 months on Count 1 with a mandatory minimum 5 years to be served consecutively on Count 2). Judgment was entered on June 5, 2023. The case is now before the court on Hutcherson's motion to vacate his conviction under 28 U.S.C. § 2255. Hutcherson claims that his attorney was ineffective for failing to investigate allegedly exculpatory police bodycam footage that shows the evidence against him was planted by the police.

Hutcherson's allegations seem to amount to little more than his own interpretation of the video evidence. The Government contends that Hutcherson's motion should be denied for this reason alone. Upon consideration of the matter, however, the court concludes that, in the interest of justice and to ensure a complete record in the event of an appeal, it is better to order the record to be supplemented with the video evidence Hutcherson describes. If the video evidence does

show police officers planting evidence, Hutcherson's motion would clearly have merit. The court has no doubt that if Hutcherson had been shown video evidence that the drug evidence against him was planted by police, he would not have pled guilty. Although it seems doubtful from Hutcherson's descriptions of the video evidence that it demonstrates the drug evidence was planted, the court believes it simple enough for the Government to provide the video recordings to the court so it can review them and make an independent determination.

Accordingly, the Government is directed to, on or before January 15, 2025, supplement the record by filing with the court the video recordings Hutcherson describes. Upon receipt of the recordings, the court will promptly view them and enter its decision on Hutcherson's motion to vacate his conviction.

SO ORDERED at Green Bay, Wisconsin this 17th day of December, 2024.

s/ William C. Griesbach
William C. Griesbach
United States District Judge